

# Delaware

PAGE 1

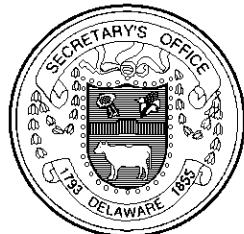
*The First State*

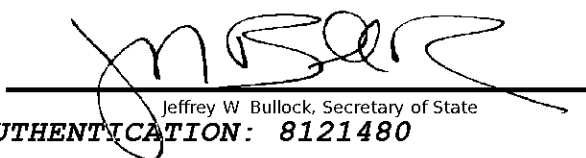
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "LIVEWIRE MOBILE, INC.", FILED IN THIS OFFICE ON THE SIXTEENTH DAY OF JULY, A.D. 2010, AT 11:36 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

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Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 8121480

DATE: 07-19-10

FIFTH RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
LIVEWIRE MOBILE, INC.

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It is hereby certified that:

1. (a) The present name of the corporation (hereinafter called the "corporation") is LiveWire Mobile, Inc.

(b) The name under which the corporation was originally incorporated is Natural Microsystems Corporation, and the date of filing of the original certificate of incorporation of the corporation with the Secretary of State of Delaware is December 12, 1983. Certificates of Amendment were filed with the Secretary of State of the State of Delaware on March 1, 1984, March 12, 1984, November 14, 1984, June 26 1985, November 1, 1985, June 30, 1986 and June 10, 1987. A Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on July 22, 1988. Certificates of Amendment to the Restated Certificate of Incorporation were filed with the Secretary of State of the State of Delaware on September 23, 1988 and June 29, 1989. A Second Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on December 20, 1989. A Certificate of Renewal was filed with the Secretary of State of the State of Delaware on June 27, 1990. Certificates of Amendment to the Second Restated Certificate of Incorporation were filed with the Secretary of State of the State of Delaware on June 28, 1990, October 7, 1991 and June 29, 1993. A Third Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on December 6, 1993. A Certificate of Amendment to the Third Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on January 20, 1994. A Fourth Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on February 25, 1994. A Certificate of Amendment to the Fourth Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on April 18, 1997. A Certificate of Correction and a Certificate of Designation were both filed with the Secretary of State of the State of Delaware on January 12, 1999. Additional Certificates of Amendment to the Fourth Restated Certificate of Incorporation were filed with the Secretary of State of the State of Delaware on May 1, 2000 and May 4, 2001. A Certificate of Change of Registered Agent and Office was filed with the Secretary of State of the State of Delaware on October 3, 2002. A second Certificate of Change of Registered Agent and Registered Office was filed with the Secretary of State of the State of Delaware on February 24, 2004. A Certificate of Change of Location of Registered Office and Registered Agent was filed with the Secretary of State of the State of Delaware on August 20, 2007. Additional Certificates of Amendment to the Fourth Restated Certificate of Incorporation were filed with the Secretary of State of the State of Delaware on December 5, 2008 and November 18, 2009.

2. The certificate of incorporation of the corporation is hereby amended by striking out Articles SECOND, FOURTH, FIFTH, SEVENTH, EIGHTH, NINTH, ELEVENTH, TWELFTH and THIRTEENTH thereof and by substituting in lieu thereof new Articles which are set forth in the Fifth Restated Certificate of Incorporation hereinafter provided for. Additionally, a new Article TENTH was added which provides for certain restrictions on the transfer of the corporation's capital stock if required to preserve certain tax benefits available to the corporation.

Article FOURTH of the certificate of incorporation has been amended to reduce the number of authorized shares of capital stock of the corporation from 128,000,000 shares to 12,800,000 shares; to reduce the number of authorized shares of common stock, \$0.01 par value, from 125,000,000 shares to 12,500,000 shares; and to reduce the number of authorized shares of preferred stock, \$0.05 par value, from 3,000,000 shares to 300,000 shares.

3. The provisions of the certificate of incorporation of the corporation as heretofore amended and/or supplemented, and as herein amended, are hereby restated and integrated into the single instrument which is hereinafter set forth, and which is entitled Restated Certificate of Incorporation of LiveWire Mobile, Inc., without any further amendments other than the amendments herein certified and without any discrepancy between the provisions of the certificate of incorporation as heretofore amended and supplemented and the provisions of the said single instrument hereinafter set forth.

4. The amendments and the restatement of the Fifth Restated Certificate of Incorporation herein certified have been duly adopted by the stockholders in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

5. This Fifth Restated Certificate of Incorporation, as amended and restated herein, shall upon the effective date hereof, read as follows:

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FIFTH RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
LIVEWIRE MOBILE, INC.

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FIRST: The name of the corporation is LiveWire Mobile, Inc.

SECOND: The registered office of the corporation in the State of Delaware is located at 2711 Centerville Road, Suite 400, City of Wilmington 19808, County of New Castle; and the name of the registered agent of the corporation in the State of Delaware at such address is Corporation Service Company.

THIRD: The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The corporation is authorized to issue two classes of stock to be designated, respectively, as "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is twelve million eight hundred thousand (12,800,000), of which twelve million five hundred thousand (12,500,000) shall be Common Stock, \$0.01 par value per share, and three hundred thousand (300,000) shall be Preferred Stock, \$0.05 par value per share.

The Preferred Stock may be divided into, and may be issued from time to time in, one or more series. The Board of Directors of the corporation (the "Board of Directors") is authorized from time to time to establish and designate one or more series of Preferred Stock by fixing and determining the variations in the relative rights and preferences as between and among such series and any other classes of capital stock of the corporation and fixing or altering the number of shares comprising any such series and the designation thereof. The authority of the Board of Directors from time to time with respect to each series shall include, but not be limited to, determination of the following:

- (a) The designation of the series;
- (b) The numbers of shares of the series and (except where otherwise provided in the creation of the series) any subsequent increase or decrease therein;
- (c) The dividends, if any, for shares of the series and the rates, conditions, times, and relative preferences thereof;
- (d) The redemption rights, if any, and price or prices for shares of the series;

- (c) The terms and amount of any sinking fund provided for the purchase or redemption of shares of the series;
- (f) The relative rights of shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the corporation;
- (g) Whether the shares of the series shall be convertible into shares of any other class or series of shares of the corporation, and, if so, the specification of such other class or series, the conversion price or prices or rate or rates, any adjustments thereof, the date or dates as of which such shares shall be convertible and all other terms and conditions upon which such conversion may be made;
- (h) The voting rights, if any, of the holders of such series; and
- (i) Such other designations, powers, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof.

FIFTH: The corporation is to have perpetual existence.

SIXTH: For the management of the business and for the conduct of the affairs of the corporation, and in further definition, limitation, and regulation of the powers of the corporation and of its directors and of its stockholders or any class thereof, as the case may be, it is further provided:

(a) The management of the business and the conduct of the affairs of the corporation shall be vested in its Board of Directors. Subject to the rights, if any, of any class or series of Preferred Stock to elect additional directors under specified circumstances, the number of directors of the corporation shall be fixed and may be increased or decreased, from time to time, by the Board of Directors, but in no case shall the number be less than three (3) nor more than fifteen (15). The phrase "entire Board" and the phrase "total number of directors" shall be deemed to have the same meaning, to wit, the total number of directors which the corporation would have if there were no vacancies. No election of directors need be by written ballot.

(b) The directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board. Each director shall serve for a term ending on the date of the third annual meeting of stockholders next following the annual meeting at which such director (or, if such director was appointed on an interim basis to fill a vacancy, then the date of the third annual meeting of stockholders next following the annual meeting at which the director of that class was elected). Notwithstanding the foregoing, each director shall hold office until such director's successor shall have been duly elected and qualified, or until such director's earlier death, resignation or removal. In the event of any change in the number of directors, the Board shall

apportion any newly created directorships among, or reduce the number of directorships in, such class or classes as shall equalize, as nearly as possible, the number of directors in each class. In no event will a decrease in number of directors shorten the term of any incumbent director. At each annual meeting of stockholders of the corporation, the successors of the class of directors whose term expires at that meeting shall be elected by plurality vote of all votes cast at such meeting.

(c) Subject to the rights, if any, of the holders of any class or series of Preferred Stock to elect additional directors pursuant to the terms and conditions of such Preferred Stock, newly created directorships resulting from any increase in the number of directors and any vacancies on the board of directors resulting from death, resignation, disqualification, removal or other cause shall be filled solely by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board, or by a sole remaining director. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been duly elected and qualified.

(d) Subject to the rights, if any, of the holders of any class or series of Preferred Stock to elect additional directors pursuant to the terms and conditions of such Preferred Stock, any director may be removed from office by the stockholders only for cause and only in the following manner. At any annual meeting or special meeting of the stockholders of the corporation, the notice of which shall state that the removal of a director or directors is among the purposes of the meeting, the affirmative vote of the holders of at least a majority of the outstanding shares of capital stock of the corporation entitled to vote generally in the election of directors, voting together, as a single class, may remove such director or directors for cause.

(e) After the original or other Bylaws of the corporation have been adopted, amended, or repealed, as the case may be, in accordance with the provisions of §109 of the General Corporation Law of the State of Delaware, and, after the corporation has received any payment for any of its stock, the power to adopt, amend, or repeal the Bylaws of the corporation may be exercised by the Board of Directors of the corporation; provided, however, that any provision for the classification of directors of the corporation for staggered terms pursuant to the provisions of subsection (d) of §141 of the General Corporation Law of the State of Delaware shall be set forth in an initial Bylaw or in a Bylaw adopted by the stockholders entitled to vote of the corporation unless provisions for such classification shall be set forth in this certificate of incorporation.

(f) Whenever the corporation shall be authorized to issue only one class of stock, each outstanding share shall entitle the holder thereof to notice of, and the right to vote at, any meeting of stockholders. Whenever the corporation shall be authorized to issue more than one class of stock, no outstanding share of any class of stock which is denied voting power under the provisions of the certificate of incorporation shall entitle the holder thereof to the right to vote at any meeting of stockholders except as the provisions of paragraph (2) of subsection (b) of §242 of the General Corporation Law of the State of Delaware shall otherwise require; provided, that no share of any such class which is otherwise denied voting power shall entitle the holder thereof to vote upon the increase or decrease in the number of authorized shares of said class.

SEVENTH: No director of the corporation shall be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability, (i) for any breach of the directors' duty of loyalty to the corporation or its stockholders, (ii) for acts of omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derived an improper personal benefit. If the General Corporation Law of the State of Delaware is amended after the approval of this Article SEVENTH to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of the State of Delaware as so amended from time to time. Any repeal or modification of this Article SEVENTH shall not increase the personal liability of any director of the corporation for any act or occurrence taking place prior to such repeal or modification, or otherwise adversely affect any right or protection of a director of the corporation existing hereunder prior to the time of such repeal or modification.

EIGHTH: The corporation shall, to the fullest extent permitted by the provisions of Section 145 the General Corporation Law of the State of Delaware, as amended from time to time, indemnify any and all persons whom it shall have power to indemnify under said section from and against any and all of the expenses, liabilities, or other matters referred to in or covered by said section, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such person.

NINTH: Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them and/or between this corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this corporation under Section 291 of General Corporation Law of the State of Delaware or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under Section 279 of General Corporation Law of the State of Delaware, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this corporation, as the case may be, and also on this corporation.

TENTH:

(a) Definitions. For purposes of this Article TENTH:

(1) “Code” means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute;

(2) “Excess Shares” means any Stock, or any rights in Stock, the Transfer or ownership of which would result in a Prohibited Ownership Percentage or a violation of Section (b) of this Article TENTH;

(3) “Exchange Act” means the Securities Exchange Act of 1934, as amended;

(4) “Expiration Date” means the earlier of (x) the repeal of Section 382 of the Code if the Board of Directors determines that the restrictions in this Article TENTH are no longer necessary for the preservation of the Tax Benefits, (y) the beginning of a taxable year of the corporation to which the Board of Directors determines that no Tax Benefits may be carried forward, or (z) such date as the Board of Directors shall fix in accordance with Section (g) of this Article TENTH;

(5) “Option” shall have the meaning set forth in Section 1.382-4 of the Treasury Regulations, as amended from time to time, promulgated under the Code (“Treasury Regulations”);

(6) a “Person” shall mean any individual, corporation, estate, trust (including a trust qualified under Sections 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, company, limited liability company, partnership, joint venture, or similar organization (including the corporation if appropriate in the context) and also includes a group as that term is used for purposes of Section 13(d)(3) of the Exchange Act, or any other entity described in Treasury Regulation Section 1.382-3(a)(1)(i);

(7) “Prohibited Distributions” means any and all dividends or other distributions paid by the corporation with respect to any Excess Shares received by a Purported Acquiror;

(8) a “Public Group” shall have the meaning contained in Treasury Regulation Section 1.382-2T(f)(13), excluding any “direct public group” with respect to the corporation, as that term is used in Treasury Regulation Section 1.382-2T(j)(2)(ii);

(9) a “Prohibited Ownership Percentage” shall mean (i) any Stock ownership that would cause a Person to beneficially own (as defined under Section 13(d) of the Exchange Act) five percent (5%) or more in value of the aggregate of the outstanding shares of capital stock of the corporation, or (ii) any Stock ownership that would cause a Person or Public Group to be a “5-

percent shareholder” of the corporation within the meaning of Treasury Regulation Section 1.382-2T(g)(1)(i); for this purpose, whether a Person or Public Group would be a “5-percent shareholder” shall be determined (i) without giving effect to the following provisions: Treasury Regulation Sections 1.382-2T(g)(2), 1.382-2T(g)(3), 1.382-2T(h)(2)(iii) and 1.382-2T(h)(6)(iii), (ii) by treating every Person or Public Group which owns Stock, whether directly or by attribution, as directly owning such Stock notwithstanding any further attribution of such Stock to other Persons and notwithstanding Treasury Regulation Section 1.382-2T(h)(2)(i)(A), (iii) by substituting the term “Person” in place of “individual” in Treasury Regulation Section 1.382-2T(g)(1), (iv) by taking into account ownership of Stock at any time during the “testing period” as defined in Treasury Regulation Section 1.382-2T(d)(1), and (v) by treating each day during the testing period as if it were a “testing date” as defined in Treasury Regulation Section 1.382-2T(a)(4)(i); in addition, for the purpose of determining whether any Person or Public Group has a Prohibited Ownership Percentage as of any date, the definition of Stock set forth in Section (A)(10) shall be applied in lieu of the definition in Treasury Regulation Section 1.382-2T(f)(18), except that any Option shall be treated as Stock only to the extent treating it as Stock would cause an increase in ownership of Stock by such Person and such Option would be deemed exercised pursuant to Treasury Regulations in effect from time to time (disregarding whether treating such Option as exercised would cause an ownership change);

(10) “Prohibited Person” shall mean any Person who has or would have, if a Transfer or purported Transfer were completed, a Prohibited Ownership Percentage;

(11) “Purported Acquiror” means any Person that purports to acquire record, beneficial, legal or any other ownership of Excess Shares. If there is more than one Purported Acquiror with respect to certain Excess Shares (for example, if the Purported Acquiror of record ownership of such Excess Shares is not the Purported Acquiror of beneficial ownership of such Excess Shares), then references to “Purported Acquiror” shall include any or all of such Purported Acquirors, as appropriate;

(12) “Stock” refers to all classes or series of stock of the corporation, all Options to acquire stock of the corporation and all other interests that would be treated as stock in the corporation pursuant to Treasury Regulation Section 1.382-2T(f)(18)(iii), other than (i) stock described in Section 1504(a)(4) of the Code and (ii) stock that would be described in such Section 1504(a)(4) but is not so described solely because it is entitled to vote as a result of dividend arrearages;

(13) “Transfer” shall mean any conveyance, issuance, sale, transfer, gift, assignment, devise or other disposition, by any means, of legal, record or beneficial ownership (direct or indirect) of Stock, whether such means are direct or indirect, voluntary or involuntary, by operation of law or otherwise, or any agreement to take any such action or cause any such events, including, without limitation, the transfer of any ownership interest in any entity that owns (directly or indirectly) Stock (and any reference in this Article TENTH to a Transfer of Stock shall include any Transfer of any interest in any such entity and references to the Persons to whom Stock is Transferred shall include Persons to whom any interest in any such entity shall have been Transferred); and

(14) “Transferee” means any Person to whom Stock is Transferred.

(b) Transfer and Ownership Restrictions. In order to preserve the net operating loss carryforwards (including any “net unrealized built-in loss,” as defined under applicable law), capital loss carryforwards, general business credit carryforwards, alternative minimum tax credit carryforwards and other tax benefits (collectively, the “Tax Benefits”) to which the corporation or any member of the corporation’s “affiliated group,” as that term is used in Section 1504 of the Code, is or becomes entitled pursuant to the Code and the Treasury Regulations or any applicable state statute, from and after the effective time of this Article TENTH until the Expiration Date, no Transfer of any Stock may be made to the extent that such Transfer, if effected: (a) would cause the Transferee or any Person or Public Group to have a Prohibited Ownership Percentage; or (b) would increase the Stock ownership percentage (determined in accordance with Section 382 of the Code and the Treasury Regulations thereunder) of any Transferee or any Person or Public Group having a Prohibited Ownership Percentage.

(c) Waiver of Restrictions. Notwithstanding anything herein to the contrary, the Board of Directors may waive the application of any of the restrictions contained in Section (b) of this Article TENTH, including any Transfer of Stock that would otherwise be prohibited, in any instance in which the Board of Directors determines that a waiver would be in the best interests of the corporation, notwithstanding the effect of such waiver on the Tax Benefits. The Board of Directors may impose any conditions that it deems reasonable and appropriate in connection with such a waiver, including without limitation, restrictions on the ability of any Transferee to Transfer Stock acquired through a Transfer. A waiver of the Board of Directors hereunder may be given prospectively or retroactively.

(d) Purported Transfer in Violation of Transfer Restriction. Unless a waiver of the Board of Directors is obtained as provided in Section (c) of this Article TENTH, any purported Transfer of Excess Shares (other than a Transfer as provided in Section (d)(2) of this Article TENTH or an automatic transfer as provided below) shall be null and void, *ab initio*, and shall not be effective to Transfer any record, legal, beneficial or any other ownership of such Excess Shares to the Purported Acquiror, who shall not be entitled to any rights as a stockholder of the corporation with respect to such Excess Shares, and such Excess Shares shall be automatically transferred pursuant to Section 202(c)(4) of the General Corporation Law of the State of Delaware to an agent designated by the corporation (the “Agent”). Any future dividends or distributions payable on any Excess Shares shall be paid to the Agent until the Excess Shares are sold by it. A Transfer that is null and void under this Section (d) shall not adversely affect the validity of any other Transfer of any Stock in the same or any other related transaction.

(1) Demand by Corporation. Unless a waiver of the Board of Directors is obtained as provided in Section (c) of this Article TENTH, within 30 days of a determination by the Board of Directors that there has been or is threatened a purported Transfer of Excess Shares to a Purported Acquiror, or that a Person proposes to take any action in violation of this Article TENTH (whether or not such action is intentional), the corporation shall make a demand on the Purported Acquiror to transfer or cause the transfer of any certificate or other evidence of purported ownership of the

Excess Shares within the Purported Acquiror's possession or control, along with the Prohibited Distributions, to the Agent. Any failure by the Purported Acquiror to transfer or cause the transfer of any certificate or other evidence of purported ownership of the Excess Shares to the Agent shall not negate the automatic transfer of such Excess Shares to the Agent.

(2) Transfer of Excess Shares and Prohibited Distributions to Agent. Upon demand by the corporation, the Purported Acquiror shall transfer or cause the transfer of any certificate or other evidence of purported ownership of the Excess Shares within the Purported Acquiror's possession or control, along with the Prohibited Distributions, to the Agent. The Agent shall sell in an arms-length transaction any Excess Shares; *provided, however*, that the Agent shall, in its reasonable discretion, effect such sale or sales in an orderly fashion and shall not be required to effect any such sale within any specific time frame if, in the Agent's reasonable discretion, such sale or sales would disrupt the market for the Common Stock or other securities of the corporation or would otherwise substantially adversely affect the value of the Common Stock or such other securities. The proceeds of such sale shall be referred to as "Sales Proceeds." If, after purportedly acquiring the Excess Shares, the Purported Acquiror has purported to sell some or all of them to an unrelated party in an arms-length transaction, the Purported Acquiror shall be deemed to have sold such Excess Shares on behalf of the Agent, and in lieu of transferring the Prohibited Distributions to the Agent, the Purported Acquiror shall transfer to the Agent the Prohibited Distributions and the proceeds of such sale (the "Resale Proceeds"), except to the extent that the Agent grants written permission to the Purported Acquiror to retain a portion of the Resale Proceeds not exceeding the amount that would have been payable by the Agent to the Purported Acquiror pursuant to Section (d)(3) of this Article TENTH if the Excess Shares had been sold by the Agent rather than by the Purported Acquiror. Any purported Transfer of the Excess Shares by the Purported Acquiror other than a transfer which (a) is described in the preceding sentences of this Section (d)(2) or occurs automatically to the Agent and (b) does not itself violate the provisions of this Article TENTH shall be null and void, *ab initio*, and shall not be effective to transfer any ownership of the Excess Shares.

(3) Allocation of Sale Proceeds, Resale Proceeds and Prohibited Distributions. The Sales Proceeds, the Resale Proceeds if applicable, and Prohibited Distributions if applicable shall be allocated as follows: (1) first to the Agent in an amount equal to the expenses incurred in selling such Excess Shares; then (2) second, to the Purported Acquiror up to the following amount: (a) the purported purchase price paid or value of consideration surrendered by the Purported Acquiror for the Excess Shares, or (b) where the purported Transfer of the Excess Shares to the Purported Acquiror was by gift, inheritance, or any similar purported Transfer, the fair market value of the Excess Shares at the time of such purported Transfer; and then (3) third any remaining amounts to an entity designated by the corporation that is described in Section 501(c)(3) of the Code, contributions to which must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code. In no event shall any Excess Shares, Sales Proceeds, Resale Proceeds or Prohibited Distributions inure to the benefit of the corporation or the Agent, except to the extent used to cover expenses incurred by the Agent in performing its duties hereunder.

(4) Remedies. Without limiting any other remedies available to the corporation, if a Purported Acquiror shall fail to comply with Section (d)(2) of this Article TENTH within thirty

(30) days of the corporation's demand, and unless a waiver of the Board of Directors is obtained as provided in Section (c) of this Article TENTH, the corporation shall promptly take all cost effective actions which it believes appropriate to compel the Purported Acquiror to surrender to the Agent the certificates representing any purported ownership of Excess Shares, the Resale Proceeds, and/or the Prohibited Distributions or to enjoin or rescind any such purported Transfer. The Board of Directors may authorize such additional actions as it deems advisable to give effect to the provisions of this Article TENTH, including, without limitation, refusing to give effect on the books of the corporation to any such purported Transfer. The corporation is authorized specifically to seek equitable relief, including injunctive relief, to enforce or prevent a violation of the provisions of this Article TENTH.

(5) Liability. If any Person shall knowingly violate, or knowingly cause any other Person under the control of such Person ("Controlled Person") to violate, Section (b) of this Article TENTH, then that Person and any Controlled Person shall be jointly and severally liable for, and shall pay to the corporation, such amount as will, after taking account of all taxes imposed with respect to the receipt or accrual of such amount and all costs incurred by the corporation as a result of such violation, put the corporation in the same financial position as it would have been in had such violation not occurred.

(e) Obligation to Provide Information. At the request of the corporation or as a condition to the registration of the Transfer of any Stock, any Person who is a beneficial, legal or record holder of Stock, and any proposed Transferee and any Person controlling, controlled by or under common control with the proposed Transferee, shall provide such information as the corporation may request from time to time in order to determine compliance with this Article TENTH or the status of the corporation's Tax Benefits.

(f) Legends. The Board of Directors may require that any certificates issued by the corporation evidencing ownership of shares of Stock that are subject either to the restrictions on transfer and ownership contained in this Article TENTH or to conditions imposed by the Board of Directors under Section (c) of this Article TENTH bear a conspicuous legend referencing the applicable restrictions.

(g) Authority of Board of Directors. Nothing contained in this Article TENTH shall limit the authority of the Board of Directors to take such other action to the extent permitted by law as it deems necessary or advisable to protect the corporation in preserving the Tax Benefits. Without limiting the generality of the foregoing, in the event of a change in law (including applicable regulations) making one or more of the following actions necessary or desirable or in the event that the Board of Directors believes one or more of such actions is in the best interest of the corporation, the Board of Directors may accelerate or extend the Expiration Date; provided that the Board of Directors shall determine in writing that such acceleration or extension is reasonably necessary or desirable to preserve the Tax Benefits or that the continuation of these restrictions is no longer reasonably necessary for the preservation of the Tax Benefits, as the case may be. In addition, the Board of Directors may, to the extent permitted by law, from time to time establish, modify, amend or rescind Bylaws, regulations and procedures of the corporation not inconsistent

with the express provisions of this Article TENTH for purposes of determining whether any Transfer of Stock would jeopardize the corporation's ability to preserve or use the Tax Benefits, or for the orderly application, administration and implementation of the provisions of this Article TENTH. The Board of Directors shall have the exclusive power and authority to administer this Article TENTH and to exercise all rights and powers specifically granted to the Board of Directors, or as may be necessary or advisable in the administration of this Article TENTH, including without limitation, the right and power to (1) interpret the provisions of this Article TENTH, (2) make all calculations and determinations deemed necessary or advisable for the administration of this Article TENTH and (3) determine value in good faith, which determination shall be conclusive. In the case of an ambiguity in the application of any of the provisions of this Article TENTH, including any definition used herein, the Board of Directors shall have the power to determine the application of such provisions with respect to any situation based on its reasonable belief, understanding or knowledge of the circumstances. In the event this Article TENTH requires an action by the Board of Directors but fails to provide specific guidance with respect to such action, the Board of Directors shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of this Article TENTH. All such actions, calculations, interpretations and determinations which are done or made by the Board of Directors in good faith shall be final, conclusive and binding on the corporation, the Agent, and all other parties; *provided, however*, the Board of Directors may delegate all or any portion of its duties and powers under this Article TENTH to a committee of independent members of the Board of Directors as it deems necessary or advisable.

(h) Benefits of this Article TENTH. Nothing in this Article TENTH shall be construed to give to any Person other than the corporation or the Agent any legal or equitable right, remedy or claim under this Article TENTH. This Article TENTH shall be for the sole and exclusive benefit of the corporation and the Agent.

(i) Severability. If any provision of this Article TENTH or the application of any such provision to any Person or under any circumstance shall be held invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Article TENTH.

(j) Waiver. With regard to any power, remedy or right provided herein or otherwise available to the corporation or the Agent under this Article TENTH, (i) no waiver will be effective unless expressly contained in a writing signed by the waiving party; and (ii) no alteration, modification or impairment will be implied by reason of any previous waiver, extension of time, delay or omission in exercise, or other indulgence.

IN WITNESS WHEREOF, LiveWire Mobile, Inc. has caused this Fifth Restated Certificate of Incorporation to be signed by its President this 16<sup>th</sup> day of July, 2010.

LIVEWIRE MOBILE, INC.

By: /s/ Matthew Stecker \_\_\_\_\_  
Matthew Stecker, President